## REMARKS

This is in response to the Office Action of October 28, 2004.

In the Election/Restriction, the Examiner notes that upon further review Species 1 & 2 have been joined and grouped in a manner that the embodiment drawn to FIGS. 3-5, 7a-7e and 8 are being examined. Applicant wishes to note that FIG. 2 has not been mentioned and this figure should be included in the embodiment being examined.

**SPECIFICATION**

The disclosure has been objected to because of certain informalities. These informalities have been corrected and this objection should be withdrawn.

**DRAWINGS**

Applicant has endeavored to comply with the Examiner's comments with regard to the drawings and has corrected the numerals. With regard to Claim 14, applicant will submit an additional drawing showing the various materials.

**CLAIM OBJECTIONS**

Claims 1, 2, 4-8, 13-17 have been objected to because of certain informalities. The misspellings have been corrected and this objection to the claims is deemed overcome.

**CLAIM REJECTION—35 U.S.C. §112**

Claims 1, 2, 4-8, 13-17 have been rejected under 35 U.S.C. 112 as being indefinite. Applicant has complied with the Examiner's comments and corrections have been made to overcome the rejection.

**CLAIM REJECTION—35 U.S.C. §102**

Claims 1, 2, 4-8, 13 and 15-17 have been rejected under 35 U.S.C. 102(b) as being anticipated by the Osawa patent 5,572,806 on a ski boot. Further, Claims 1, 2, 7-8 and 15 have

been rejected under 35 U.S.C. 102(b) as being anticipated by Roa patent 1,528,265 on a metal shoe.

Osawa and Roa describe rigid shoes with a main element and a separate rigid toe element. The toes can flex upward to assist in walking. One would not be able to dance on pointe in these shoes. The older patent is a metal shoe designed by Roa, patent 1,528,265, with a transverse rotational joint located in the sole below the ball of the foot. The joint consists of a metal rod passing through a piano type hinge from one side to the other side of the foot. The Osawa patent is for ski boots. In patent 5,572,806 to Osawa, the axis of rotation is again located in the sole. It uses a flexible material as the mechanism of rotation.

The present invention differs in that it has no sole structure below the ball of the foot. The axis of rotation is located near the center of the metatarsal phalange (M-P) joint. The mechanism of rotation, the axis material and the attachment plates are positioned at the sides of the shoe. This is very different.

In contrast to the present invention, the attachment plate for the main body of the ski boot is large and complicated. It has structures for fastening the joint to the ski and a locking mechanism at the heel of the boot. The present invention has two sets of small side attachment plates with a locking mechanism that engages a foot in the vertical position. It consists of a control pin on the metatarsal side of the joint and a notch on the toe side. In addition, the ski boot of Osawa uses a strap to limit the rotation of the joint with a toe flexed in an up position. The present invention limits this rotationed direction when the back edge of the toe cup contacts the front edge of the metatarsal plate. It also permits the tendu position of the toes flexed down.

The prior art teaches the use of a rotational joint between the main element of a shoe and a rigid toe element to facilitate walking. The present invention teaches the use of a rotational

joint between a half shoe of a mid-foot element and a toe element to facilitate dancing. This includes walking, running and jumping with the foot having a full contact with the floor. In addition, the rotational joint will lock and support the foot in pointe position. The transverse rotational lock joint comprises two sets of plates near the center of the M-P joint of the foot. The rotation and locking mechanism are simple and small. This is in contrast to the transverse rotational lock joints of the prior art which serve a very different purpose. The Roa and Osawa patents failed to anticipate the unique structure of the present invention for a point shoe.

## CONCLUSION

In summary applicant has amended the Specification and Claims to precisely describe this unique invention. The pointe shoe of the present invention represents a unique improvement over the traditional pointe shoes of the prior art. In deed, not a single pointe shoe is cited as a reference against the invention but the references consisted of a ski boot and a metal shoe, neither of which affected the patentability of the invention.

Claims 1, 2 4-8, 13, 15-17, are deemed patentable over the prior art of record. Therefore, reconsideration and allowance of these claims is respectfully requested.

RESPECTFULLY SUBMITTED,

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